

REMARKS

Applicant has carefully reviewed the Office Action mailed March 27, 2008 and offers the following remarks to accompany the above amendments.

Claim Amendments

Claims 52-55 were objected to as not being in accordance with 37 C.F.R. § 1.126. Applicant has renumbered claims 52-55 to be claims 51-54. Accordingly, the objection to claims 51-54 should be withdrawn. Applicant has added new dependent claims 55-58, which depend from independent claims 35, 48, 53, and 54, respectively. Applicant has also amended claims 35, 48, 53, and 54 to require that a second device be directed to receive a media item or song, as appropriate, as discussed in greater detail below. Applicant has cancelled claims 36, 40, and 42 in view of the amendments to claims 35, 48, 53, and 54. Claims have also been amended for purposes of clarification, including to ensure correct antecedent basis and as appropriate in view of the amendments to claims 35, 48, 53, and 54.

Rejection Under 35 U.S.C. § 102(e) - Cue

Claims 35-54 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2005/0240494 A1 to Cue et al. (hereinafter “Cue”). Applicant respectfully traverses. For a reference to be anticipatory, the reference must disclose each and every claim element. Further, the elements of the reference must be arranged as claimed. MPEP § 2131. The requirement that each and every element be disclosed in the manner claimed is a rigorous standard that the Patent Office has not met in this case.

Cue discloses a system for sharing playlists and facilitating purchasing media items identified by playlists. A user may publish/upload a playlist to a media commerce server (Cue, par. 0038). Other users may review the playlist and purchase media items identified by the playlist (*Id.* at par. 0031).

Applicant's claimed invention, as amended, relates to receiving playlists and media items on a first device, and directing a second device to obtain a selected media item. For example, among other requirements, Applicant's independent claim 35 requires that a media item identifier associated with a playlist be selected on a first device, and directing a second device to receive a media item identified by the media item identifier from a content server. Cue fails to teach or

suggest selecting a playlist on a first device and directing a second device to receive a media item associated with a media item identifier on the selected playlist, nor has the Patent Office shown where Cue discloses such limitations. Regarding independent claims 48, 53, and 54, each of which contains limitations similar to those discussed above with respect to independent claim 35, the Patent Office has provided no independent basis for the rejection. Rather, the Patent Office asserts that "[c]laims 48-54 have similar limitations as claims 35-47; therefore, they are rejected under the same rationale" (Office Action mailed March 27, 2008, p. 4). Consequently, for the reasons discussed above, Applicant believes claims 35, 48, 53, and 54 are now allowable, and allowance is respectfully requested.

The Patent Office rejects Applicant's dependent claims 36-47 with the broad assertion that the limitations discussed in such claims are taught in Cue at Figs. 2, 4, and 5; pages 1-3; and pars. 0004, 0005, 0031, 0037, and 0038, without specifically identifying where in Cue any of these particular limitations are disclosed. The Patent Office then summarily rejects claims 48-54 with the assertion that the limitations in claims 48-54 are similar to those in claims 35-47, and "are rejected under the same rationale" (Office Action mailed March 27, 2008, p. 4). While Applicant believes claims 37-39, 41, 43-47, 49-52, and 55-58, which are dependent claims depending directly or indirectly from independent claims 35, 48, 53, and 54, respectively, are allowable at least because they depend from allowable independent claims 35 and 48, Applicant notes that, in contrast to the Patent Office's unsupported assertion, Cue also fails to teach or suggest many of the limitations contained in such claims. For example, Cue fails to teach or suggest any of the following claimed limitations: a first device comprising a remote control operative to control the second device (claims 38 and 39); adjusting at least one parameter on the second device from the first device (claims 41 and 52); selecting the second device from the first device (claim 43); selecting the plurality of media items in a first order and receiving the media items in the first order (claim 45); automatically providing a recommendation of a playlist name based upon listening habits of a listener (claim 47); or directing a second device to play the media item (claims 55 and 56).

Accordingly, for at least these reasons, Applicant urges that Cue does not anticipate independent claims 35, 48, 53, and 54, nor does Cue anticipate claims 37-39, 41, 43-47, 49-52, and 55-58, which are dependent claims depending directly or indirectly from independent claims 35, 48, 53, and 54, respectively, for at least the same reasons.

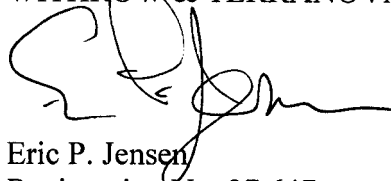
Conclusion

The present application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:

A handwritten signature in black ink, appearing to read "Eric P. Jensen", written over the printed name.

Eric P. Jensen
Registration No. 37,647
100 Regency Forest Drive, Suite 160
Cary, NC 27518
Telephone: (919) 238-2300

Date: June 27, 2008

Attorney Docket: 1116-063